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EXAMINER

EWART, JAMES D

ART UNIT PAPER NUMBER

2683

DATE MAILED: 07/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/675,997

Applicant(s)

EGNER ET AL.

Examiner

James D Ewart

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 3,5-11,13-23,25-37,39 and 42-52 is/are pending in the application.

4a) Of the above claim(s) ____ is/are withdrawn from consideration.

- 5) ☐ Claim(s) ____ is/are allowed.

- 6) ☒ Claim(s) 3,5-11,13-23,25-37,39,42-44 and 46-49 is/are rejected.

- 7) ☒ Claim(s) 45 and 50-52 is/are objected to.

- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). ____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____ 6) ☐ Other: ____

Response to Arguments

1. The applicants arguments regarding prior art rejections under 35 U.S.C. 102(e) and 103(a), filed May 25, 2004, have been fully considered by the Examiner and are addressed below.
2. In response to claim 42, Applicant's arguments are moot in view of the new ground(s) of rejection.
3. In response to claims 3, 18, and 29, applicant argues that there is no suggestion to combine DeTemple and Owensby, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the systems of DeTemple and Owensby both include a tracking system for tracking the customer, a customer profile and both include providing advertising to the customer on a display. Owensby however provides targeted advertising based on the location of the user (abstract). The reason to combine DeTemple with Owensby is the same reason that Owensby teaches for targeting advertisements to customers which is to provide more value to the effectiveness of the advertisement (0008, last sentence).
4. In response to applicant argument that Owensby teaches that messages "cannot be targeted to the subscriber of a landline communications service on the basis of the physical

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location of the subscriber”, Owensby teaches “landline communications service” and further teaches “conventional landline communications services” which examiner equates with public telephone service. However, being that Owensby uses the term fixed location, examiner will replace Owensby with another reference, which teaches target advertising, based on a wireless users location and will submit another non-final action. Examiner has also provided other references, which teach similarly.

Claim Objections

5. Claim 45 is objected to because of the following informalities: the claim states “purchasing activation” and should be “purchasing activities”. Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless – (e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

6. Claim 42 is rejected under 35 U.S.C. 102(e) as being anticipated by Ogasawara (U.S. Patent No. 6,513,015).

Referring to claim 42, Ogasawara teaches a system comprising: a controller adapted to identify a location of a person (Column 3, Lines 23-27 and Column 10, Lines 51-57) and to receive video images of at least one of the person and an environment in the proximity of the person (Column 14, Lines 22-45 and Figure 1), the controller adapted to communicate the received images to a remote node (Column 3, Lines 65-67) and a sub-system to track the location of the person (Column 10, Lines 51-57), the control adapted to receive video images from different ones of a plurality of video cameras based on the where the person is located (Column 3, Lines 23-27; Column 4, Lines 27-30; Column 8, Lines 55-58 and Figure 1, 14); the controller adapted to receive an indication that a user has registered to have a video album created (Column 13, Lines 1-10, Column 14, Lines 24-26 and Column 16, Lines 39-55) the controller adapted to create the video album containing the received video images (Column 14, Lines 22-45) in response to the indication that the user has registered to have the video album created (Column 13, Lines 1-10, Column 14, Lines 24-26 and Column 16, Lines 39-55). The person is tracked as they enter and exit the commercial establishment via the interrogator antenna.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made

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to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 3-11, 14, 15, 18-23, 25, 27-30, 32-37 and 43-47 are rejected under 35

U.S.C. 103(a) as being unpatentable over DeTemple et al (U.S. Patent No. 5,572,653) in view of Titmuss et al. (U.S. Patent No. 6,397,040).

Referring to claims 3, DeTemple et al discloses a method of communications in a geographic region having a plurality of fixed presentation devices (Figure 1; 28 and 30 and Column 4, Lines 20-22) that are located at respective fixed positions (Figure 2; 28, 30 and 16), comprising: determining a location of a user (Column 4, Lines 22-25 and Column 8, Lines 37-39); and sending information to present to the user on a presentation device in the proximity of the user (Column 1, Lines 20-26 and Column 2, Lines 66 – Column 3, Line 17), but does not teach sending information based on the determined location and determining from a user profile advertising information of interest to the user wherein sending the information comprises sending the advertising information. Titmuss et al. teaches sending information based on the determined location (Column 2, Lines 54-62) and determining from a user profile (Column 3, Lines 8-12 & Column 6, Lines 63-65) advertising information of interest to the user (Column 8, Lines 10 & 62) wherein sending the information comprises sending the advertising information (Column 8, Lines 10, 29-43 and 62 and Column 10, Lines 6-25). Therefore, at the time the invention was made, it would have been obvious to a person of ordinary skill in the art to combine the art of DeTemple et al with the teachings of Titmuss et al. of sending information based on the determined location and determining from a user profile advertising information of

interest to the user wherein sending the information comprises sending the advertising information in order to provide personalized information distribution which alters the information delivered dynamically in accordance with the location of each of the users (Column 3, Lines 9-12). Webster's collegiate dictionary, 10th edition defines the word advertise as to make something known.

Referring to claims 18, 19, 29, 31 and 32, DeTemple et al discloses a method of communications in a geographic region having a plurality of fixed presentation devices (Figure 1; 28 and 30 and Column 4, Lines 20-22) that are located at respective fixed positions (Figure 2; 28, 30 and 16), comprising: determining a location of a user (Column 4, Lines 22-25 and Column 8, Lines 37-39); and sending information to present to the user on a presentation device in the proximity of the user (Column 1, Lines 20-26 and Column 2, Lines 66 – Column 3, Line 17), but does not teach sending information based on the determined location and determining from a user profile information of interest to the user wherein sending the information comprises sending the determined information. Titmuss et al. teaches sending information based on the determined location (Column 2, Lines 54-62) and determining from a user profile (Column 3, lines 8-12 and Column 6, Lines 63-65) information of interest to the user (Column 3, lines 58-61) wherein sending the information comprises sending the determined information (Column 8, Lines 10, 29-43 and 62 and Column 10, Lines 6-25). Therefore, at the time the invention was made, it would have been obvious to a person of ordinary skill in the art to combine the art of DeTemple et al with the teachings of Titmuss et al. of sending information based on the determined location and determining from a user profile information of interest to the user

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wherein sending the information comprises sending the determined information in order to provide personalized information distribution which alters the information delivered dynamically in accordance with the location of each of the users (Column 3, Lines 9-12).

Referring to claims 5, 6, 43, 44, 46 and 47, DeTemple et al further teaches updating the user profile based on actions/products purchased of the user (Column 8, Lines 20-30) but does not teach wherein determining the advertising information of interest to the user is based on the updated user profile. Titmuss et al. teaches wherein determining the advertising information of interest to the user is based on the updated user profile (Column 8, Lines 19-23). Therefore, at the time the invention was made, it would have been obvious to a person of ordinary skill in the art to combine the art of DeTemple et al with the teaching of Titmuss et al. wherein determining the advertising information of interest to the user is based on the updated user profile in order to provide personalized information distribution which alters the information delivered dynamically in accordance with the location of each of the users (Column 3, Lines 9-12).

Referring to claim 7, DeTemple et al further discloses determining the location of the user comprises using information from a local tracking system within the geographic region (Column 7, Line 66 to Column 8, Line 19 and Column 8, Lines 37-39).

Referring to claim 8, DeTemple et al further discloses wherein determining the location of the user comprises determining the location within a facility (Column 7, Line 66 to Column 7, Lines 19 and Column 8, Lines 37-39).

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Referring to claim 9, DeTemple et al further discloses wherein determining the location is based on a location of a tracking device (Column 7, Line 66 to Column 7, Lines 19 and Column 8, Lines 37-39).

Referring to claims 10, 22 and 23, DeTemple et al further discloses wherein determining the location is based on communication of signals between the tracking device carried by the user and a network of antennas (Column 7, Line 66 to Column 7, Lines 19 and Column 8, Lines 37-39). Examiner equates pushing the cart, which has the tracking device, with carrying the tracking device.

Referring to claim 11, DeTemple et al teaches sending the information comprises sending information to present on a presentation device separate from the tracking device (Figure 2 and Column 7, Lines 66-67).

Referring to claim 14, DeTemple et al further teaches receiving data collected from one or more input devices of activities of the user (Column 8, Lines 20-29).

Referring to claim 15, DeTemple et al further teaches wherein receiving the data comprises receiving data collected from one or more input devices in the proximity of the user (Column 4, Lines 29-41).

Referring to claims 20 and 30, Titmuss et al. further teaches wherein sending the determined information comprises sending advertising information targeted to the interest of the

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user based on the user profile (Column 8, Lines 10 & 62). Webster's collegiate dictionary, 10th edition defines the word advertise as to make something known.

Referring to claim 21, DeTemple et al further discloses wherein the information to present on one of the fixed presentation devices comprises one of video data and image data (Figure 1, 30 and Column 10, Lines 18-21).

Referring to claim 25, DeTemple et al further discloses wherein the controller is adapted to retrieve location information of a plurality of users (Column 7, Line 67).

Referring to claim 27, DeTemple et al further discloses wherein the location information identifies the location of the user in a facility selected from the group consisting of an entertainment facility, a retail facility, a business facility, an educational facility, and a governmental facility (Column 7, Line 67).

Referring to claim 28, DeTemple et al further discloses an interface adapted to communicate over a network with a sub-system comprising the device (Column 10, Lines 10-20).

Referring to claims 33 and 34, DeTemple et al further teaches updating the user profile based on actions/products purchased of the user (Column 8, Lines 20-30).

Referring to claim 35, DeTemple et al further teaches collecting information identifying retail activities/ products purchased of the user (Column 8, Lines 20 – 29).

Referring to claim 36, DeTemple et al further teaches wherein the retail activities comprise visits to retail outlets and purchases of goods or services (Column 8, Lines 20 – 29).

Referring to claim 37, DeTemple et al further teaches wherein the instructions when executed cause the system to further communicate the collected information to a retail entity (Figure 1).

8. Claims 13 and 26 are rejected under 35 USC 103(a) as being unpatentable over DeTemple et al, Titmuss et al. and further in view of Shapira (U.S. Patent No. 5,086,394).

Referring to claims 13 and 26, DeTemple et al, and Titmuss et al. teach the limitations of claims 13 and 26, but do not teach determining one or more common interests of the users, wherein sending the information comprises sending information based on the one or more common interests. Shapira teaches determining one or more common interests of the users, wherein sending the information comprises sending information based on the one or more common interests (Column 3, Lines 22-26). Therefore, at the time the invention was made, it would have been obvious to a person of ordinary skill in the art to combine the art of DeTemple et al and Titmuss et al. with the teachings of Shapira of determining one or more common interests of the users, wherein sending the information comprises sending information based on the one or more common interests to bring together people, who, by their own standards, are desirous of meeting (Column 2, Lines 13-16).

9. Claim 16 is rejected under 35 USC 103(a) as being unpatentable over DeTemple et al, Titmuss et al. and further in view of Ogasawara.

Referring to claim 16, DeTemple et al and Titmuss et al. teach the limitations of claim 16, but do not teach wherein receiving the data comprises receiving data collected using one or more video cameras (Figure 1). Ogasawara teaches wherein receiving the data comprises receiving data collected using one or more video cameras (Column 4, Lines 27-30). Therefore, at the time the invention was made, it would have been obvious to a person of ordinary skill in the art to combine the art of DeTemple et al and Titmuss et al. with the art of Ogasawara wherein receiving the data comprises receiving data collected using one or more video cameras to detect unauthorized use of a customer ID card (Column 14, Line 34) and to provide personalized service to a customer (Column 15, Line 3, 26-30).

10. Claim 17 is rejected under 35 USC 103(a) as being unpatentable over DeTemple et al, Titmuss et al. and Ogasawara and further in view of Narasimhan et al (U.S. Patent No. 6,237,145).

Referring to claim 17, DeTemple et al, Titmuss et al. and Ogasawara teach the limitations of claim 17 including storing the received data collected by one or more video cameras in a video images Ogasawara, Column 14, Lines 22-45), but do not teach that it is accessible by the user. Narasimhan et al teaches providing profile access to the user (Column 8, Lines 4-13). Therefore, at the time the invention was made, it would have been obvious to a person of ordinary skill in the art to combine the art of DeTemple et al, Titmuss et al. and Ogasawara with

the teachings of Narasimhan et al of providing profile access to the user so that the user may update his or her own profile as necessary (Column 8, lines 4-5).

11. Claim 39, 48 and 49 is rejected under 35 U.S.C. 103(a) as being unpatentable over DeTemple et al. in view of Sengupta et al (U.S. Patent No. 6,359,647) and further in view of Ogasawara.

Referring to claim 39 and 48, DeTemple et al teaches a data signal embodied in a carrier wave and containing instructions that when executed cause a system to: track a location of a user as the user changes location (Column 3, Lines 10-13), but does not teach receiving video data collected from plural cameras in the proximity of the user based on tracking the location of the user, the received video data including video images of the user as the user roams about the locations in a facility, including locations away from an entrance and exit of the facility and storing images of the user roaming about locations in the facility, including locations away from the entrance and the exit of the facility. Sengupta et al teaches receiving video data collected from plural cameras in the proximity of the user based on tracking the location of the user, the received video data including video images of the user as the user roams about the locations in a facility, including locations away from an entrance and exit of the facility and storing images of the user roaming about locations in the facility, including locations away from the entrance and the exit of the facility. DeTemple et al. and Sengupta et al teach the limitations of claim 39, but do not teach receiving video data collected from plural cameras in the proximity of the user and storing collected video data in a video album. Ogasawara teaches receiving video data collected

from plural cameras in the proximity of the user (Column 4, Lines 22-33; Column 8, Lines 20-30 & 55-58 and Figure 1, 14) and storing collected video data in a video album (Column 8, Lines 25-30). Therefore, at the time the invention was made, it would have been obvious to a person of ordinary skill in the art to combine the art of DeTemple et al with the teachings of Ogasawara of receive video data collected from plural cameras in the proximity of the user based on tracking the location of the user and store the video data in a video album to detect unauthorized use of a customer ID card (Column 14, Line 34) and to provide personalized service to a customer (Column 15, Line 3, 26-30).

Referring to claim 49, Ogasawara further teaches wherein tracking the location of the user comprises tracking the location of the user based on tracking a tag carried by the user (Column 4, Lines 17-33). The person is tracked as they enter and exit the commercial establishment via the interrogator antenna.

Allowable Subject Matter

12. Claim 45, 50, 51 and 52 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form *including all of the limitations of the base claim and any intervening claims*. The following is a statement of reasons for the indication of allowable subject matter:

Referring to claim 45, the references cited do not teach presenting the advertising information on one of the fixed presentation devices in the facility based on the user profile updated based on the purchasing activities of the user in the facility.

Referring to claims 50-52, the references cited do not teach developing the user profile based on activities of the user within a facility and based on video images of the user collected by video cameras in the facility; and tailor the advertising information to be sent to the user based on the developed profile, wherein sending the advertising information comprises sending the tailored advertising information to one of the fixed presentation devices in the proximity of the user based on the determined location of the user.

Conclusion

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Glatt U.S. Patent No. 5,926,209 discloses video camera apparatus with compression system responsive to video camera adjustment

Hendrey et al. U.S. Patent Publication No. 2002/0102993 discloses method and system for analyzing advertisements delivered to a mobile unit.

Obradovich U.S. Patent Publication No. 2002/004556 discloses GPS publication application server.

Rhodes et al. U.S. Patent No. 5,923,364 discloses video security system.

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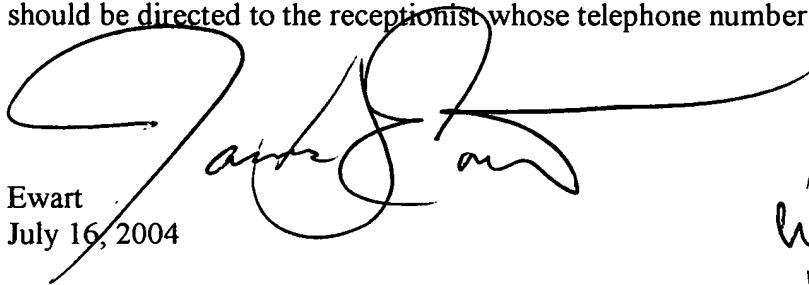
Ventulett et al. U.S. Patent Publication No. 2001/004561 discloses system and method for location-based stimuli motivated information delivery.


14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to James D Ewart whose telephone number is (703) 305-4826. The examiner can normally be reached on M-F 7am - 4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Trost can be reached on (703)308-5318. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9306 for regular communications and (703) 872-9306 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)305-3900.

Ewart
July 16, 2004




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